

GOVERNMENT OF ANDHRA PRADESH
ABSTRACT

Tribal Welfare Department - Khammam District - Revision Petition filed by Sri Bathula Mala Konda Reddy S/o Konda Reddy R/O Morampally Banjar, Burgampad (M) Khammam District against CMA No: 15/2002 dated: 28-11-03 of Agent to Government Bhadrachalam in respect of 3.00 Acres of land in Morampally Banjar (V) in Survey No: 421/1/10- Rejected - Orders - Issued.

SOCIAL WELFARE (LTR-2) DEPARTMENT

G.O.MS.No. 11:
Dated:01.02.2013

Read the
following:

- 1.From Sri Bathula Mala Konda Reddy S/o.Konda Reddy dated:04-07-07.
- 2.Govt.Memo.No.5670/LTR-2/2007-1, dt.26.09.2007.
- 3.From District Collector, Khamma District Rc.No. F2/CMA.15/02, dt.06.11.2007.
- 4.Govt.Lr.No.5670/LTR-2/2007,dt. 16.4.12, 26.6.12 &19.10.2012

ORDER:

In the reference Ist read above, Sri Bathula Mala Konda Reddy S/o.Kondareddy R/o.Morampally Banjar, Burgampad (M), Khammm District filed a Revision Petition along with a Stay Petition before the Government against the orders of the Agent to Government, Khammam in C.M.A.No.15/2002 dated: 28-11-03 of Agent to Government Bhadrachalam in respect of 3.00 Acres of land in Morampally Banjar (V) in Survey No: 421/1/10. The main grounds of the petitioner in the Revision Petition are as given below:-

1. The order passed by the Lower Authorities are contrary to law and facts of the case.
2. The Agency Divisional Officer passed the order without giving any notice and opportunity to the petitioner. The order is violative of principles of natural justice.
3. The orders passed without giving opportunity at the primary stage shall not cure the defect and all orders are liable to be set aside (AIR 1980 A.P.100).
4. The Agency Divisional Officer was not the person designated by the Government as per section 2 (C). As such the orders passed by the Agency Divisional Officer is illegal and without jurisdiction.
5. The authorities should have seen that the patta pass book and title deeds were issued to the petitioner after conducting enquiry and also collecting stamp duty and registration charges under the ROR Act.
6. The authorities are ought to have seen that the orders are passed on 18.03.1995 in respect of the same land among

the same persons. The order became final. The authorities has

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no power or jurisdiction to review the earlier orders. Accordingly, initiating of proceedings again is illegal land without jurisdiction as held by the High Court 2000(2) ALT 155.

7. The Agent to Government passed orders without considering the contentions raised by the petitioner. And the orders are arbitrary and illegal.
8. The Agent to Government observed the ale deed is not a registered one and not admissible. The full bench of High Court considered the matter in detail and passed orders the authorities under the Regulation has no jurisdiction in respect of the violation of the Transfer of property Act, Registration Act etc (1981 (2) APLJ pg 260).
9. The other reasons given by the authorities in treating the transfer of the land in contravention provisions of the Regulation are not sound and tenable.

2. In the reference 2nd read above, the District Collector, Khammam was requested to furnish parawise remarks and connected records.

3. The District Collector, Khammam furnished parawise remarks and connected records on the Revision Petition on 6.11.2007 in the reference 3rd read above.

4. The Revision Petition has been posted for hearing on 1-5-2012, 10-7-2012 and finally on 29.10.2012, the same has been informed to the Revision Petitioner and the Respondents to attend the above hearings with all documentary evidences. The Revision Petitioner/Counsel has attended the hearing and filed written arguments.

5. Government have examined the records and orders of the Additional Agent to Government in CMA No.15/2002,dt.28-11-2003 and written arguments submitted by the Revision Petitioner. As seen from the parawise remarks and connected records sent by the Agent to Government. Bhadrachalam, the brief facts of the case is that the case was initiated by the Agency Divisional Officer, on Suo Moto with the village records of Morampally (V). After verifying available records, notices were issued to the Respondent and Revision Petitioner herein ie., Sri Malakonda Reddy including the show cause notice in form-E as required under rule 7(1) and 7(2) of the AP (SAS) Land Transfer Regulation 1959 read with 1/70 to show cause to why he should not be ejected from the said land. The Respondent failed to submit written reply in response to form-E notice given to him. The case was called on 9.6.05, 14.3.2000, 21.3.2000, 19.9.2000 and 17.10.2000. Though notices were issued to both the parties they have not attended the court. The Respondent (Malakonda Reddy) has not even submitted any reply to the notices issued by the Agency Divisional Officer. Hence, it was construed that there is no documentary evidence with him, to prove his title over the suit land. Perused the pahanies of the Morampalli Banjar village, which was disclosed that the name of the respondent find

place in the occupant column in the year 1994-95. Hence it was held proved that the respondent came into the possession of the suit land in the year 1994-95 ie., after 3.2.1970 on which date the Land Transfer Regulation came into force. Hence the transaction is null and void.

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6. Accordingly, in exercise of the powers conferred under the Sub-section 2(a) of the Section 3 of the Regulation 1 of 1959, the Agency Divisional Officer, Paloncha ordered ejectment against the respondent (Malakonda Reddy) vide Land Transfer Regulation Case No.442/94/BPD, dt.18.03.95.

7. Aggrieved by the order of Agency Divisional Officer, Paloncha, Sri B.Malakonda Reddy had filed an Appeal petition before the Additional Agent to Government, Bhadrachalam. The Appellant in his appeal averred that the Mandal Revenue Officer, Burgampahad has issued Pattadar Pass Books and Title deeds, after collecting requisite stamp duty and registration fee respectively.

8. The appellant also averred that the Special Deputy Collector (TW) Court already initiated a Land Transfer Regulation proceedings and passed orders on 18.3.1995 and initiating proceedings under the Land Transfer Regulation and passing order again on 17.10.2000 are not maintainable and the rule res-judica applies, as was held by the Hon'ble High Court of AP in decision report in 2000 (2) ALT Page No.155.

9. He further averred that no notices were served in later case on the appellant and the whereabouts of the respondent (Sayyad asrar) was also not known after he left Morampalli Banjar village. The appellant (B.Malakonda Reddy) further stated that for the last (30) years, the respondent (Sayyad asrar) was not heard and the Revenue Divisional Officer, Mandal Revenue Officer are making hurried attempts to disturb the possession of the appellant from the Sy.No.421/1/10 for an extent of Ac.3.08 gts situated in Morampalli Banjar.

10. Additional Agent to Government after examining the lower court record in which the Land Transfer Regulation proceedings were initiated and passed order on 17.10.2000 in Land Transfer Regulation case No.H/156/95/BPD has observed that the appellant (B.Malakonda Reddy) filed Xerox copies of certificate under ROR and Xerox copies of Pattadar Pass Book. This Pattadar Pass Book has been issued by the Mandal Revenue Officer, Burgampahad and Revenue Divisional officer, Paloncha duly collecting the stamp duty. The appellant also filed a Xerox copy of the sada sale deed dated 21.9.1965, which appears to be executed in between Syed Asrar who is the petitioner in Lower Court and B.Malakonda Reddy, the respondent for a total sale consideration of Rs.350/- for an extent of Ac.3.08 in Sy.No.421/1/10 of Morampalli banjar of Burgampahad Mandal.

11. Except the above, the appellant has not filed any other corroborative evidences and original documents. B.Malakonda Reddy (appellant) failed to file the Land Revenue receipts for the land said to be held by him at least for the crucial period of regulation came into force ie., for 1968-69, 1969-70 and 1970-71. Not even filed the pahani extracts showing the recorded entries having his possession over the land in crucial period of the

regulation 1/1970. At the same time, the records such as Pattadar Pass Book, Title Deeds filed by the appellant cannot be relegated as they have been issued by the Mandal Revenue Officer, Kothagudem under the ROR Act. But under the provisions of Rule 9(1) (a)(iii)(x) of ROR Act, it is clear that the Land Transfer Regulation supersede the ROR Act. The Mandal Revenue Officer without observing the valid title and basing on a Sada Sale Deed collected requisite fee under ROR and issued Pattadar Pass Book and Title Deeds erroneously. Thus the appellant obtained the same misleading the Government. Further the sale transaction is an ordinary, which cannot be admitted as an evidence.

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12. In view of the above, the Additional Agent to Government, Bhadrachalam in exercise of the powers conferred under Rule 8(1)(2) of APSALTR 1969 and Land Transfer Regulation 1/59 as amended by 1/70, dismissed the appeal and uphold the orders in Land Transfer Regulation Case No.442/94/BPD, dt.18.03.1995, and directed the Mandal Revenue Officer to evict the Non-Tribal appellant or his men or any other person from the Petition Scheduled land and comply with these orders and to send report of compliance vide CMA No.15/2002, dt.28.11.2003.

13. Aggrieved by the order of Additional Agent to Government, Bhadrachalam, Khammam District, Sri Bathula Mala Konda Reddy S/o.Kondareddy has filed a Revision Petition before the Government on 10.07.2007.

14. Government further observed that in the Revision Petition/Written Arguments, the Revision Petitioner has contended the same contents which were filed before the lower courts and no fresh grounds are adduced by the Revision Petitioner except denying the orders of the Agent to Government, Khammam District. On perusal of the documentary evidences made available, it is found that the sale agreement produced by the Revision Petitioner is not an authenticated one and no other corroborative evidences for the crucial periods ie., prior to commencement of the Land Transfer Regulation 1/70 have been produced by the Revision Petitioner.

15. Government after careful examination of the facts and records of the case hereby order to uphold the order of the Agent to Government, Khammam District in C.M.A.No.24/2001, in accordance with the Rules and Rejected the Appeal Petition filed by Sri Bathula Malakonda Reddy S/o.Kondareddy R/o.Morampally Banjar, Burgampahad (M), Khammam District accordingly.

16. The District Collector, Khammam/ Additional Agent to Government, Bhadrachalam, Khammam District is requested to take necessary action in the matter accordingly and acknowledge the receipt of the case records which are returned herewith.

(BY ORDER AND IN THE NAME OF THE GOVERNOR OF ANDHRA RADESH)

Dr .A.VIDYASAGAR
PRINCIPAL SECRETARY TO GOVERNMENT
(TW)

To

The Collector & Agent to Govt., Khammam District.

The Additional Agent to Government & Project Officer, ITDA

Bhadrachalam, Khammam.(with RPAD of the following records.

(Case file CMA No.15/2002 containing 98 pages of CF and 06 pages of NF).

The Special Deputy Collector (TW), Khammam District.

The Mandal Revenue Officer, Burgampad, Khammam District.

Sri R.Kameswara Rao, Advocate, H.No.8-84, Road No.3, Gauthm Nagra, Dilsukhnagar, Hyderabad-60.

Sri Bathula Milkonda Reddy, S/o.Kondareddy, Morampalli Banjar, Burgampad (M), Khammam District.

Sri Syed Asrar, S/o.Syed Jaharul Haq, R/o.Morampalli Banjar, Burgampad (M), Khammam District.

The G.P for Social Welfare, High Court of A.P.

The P.S to M (TW) for information/the P.S to Principal Secretary to Government (TW).

SF/SC.

// FORWARDED:: BY ORDER //

SECTION OFFICER